



**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 21-05]

RIN 1515-AE61

**Extension of Import Restrictions Imposed on Certain Archaeological
and Ethnological Materials from Colombia**

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological and ecclesiastical ethnological material from Colombia. The restrictions, which were originally imposed by CBP Dec. 06 – 09 and last extended by CBP Dec. 16 – 05, are due to expire on March 15, 2021. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determinations for extending the import restrictions that previously existed, and the Government of the United States and the Government of Colombia entered into a new agreement to reflect the extension of these import restrictions. The new agreement, which enters into force on March 10, 2021, supersedes the existing Memorandum of Understanding (MOU) that became effective on March 15, 2006, and enabled the promulgation of the existing import restrictions. Accordingly, the import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension until March 10, 2026. CBP Dec. 06 – 09 contains the amended

Designated List of archaeological and ecclesiastical ethnological material from Colombia to which the restrictions apply.

DATES: Effective on March 10, 2021.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Branch Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0215, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Pinky Khan, Branch Chief, Commercial Targeting and Analysis Center, Trade Policy and Programs, Office of Trade, (202) 427-2018, CTAC@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the Convention on Cultural Property Implementation Act, Pub. L. No. 97-446, 19 U.S.C. 2601 *et seq.*, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a Memorandum of Understanding, titled “Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Columbian Cultures and Certain Ecclesiastical Ethnological Material from the Colonial Period of Colombia” (MOU), with the Republic of Colombia (Colombia) on March 15, 2006. The MOU enabled the promulgation of import restrictions on certain archaeological material representing Colombia’s pre-Colombian cultures and ranging in date from approximately 1500 B.C. to A.D. 1530, and Colombian ecclesiastical ethnological material of the Colonial period ranging in date from approximately A.D. 1530 to 1830. On March 17, 2006, CBP published CBP Dec. 06-09 in the *Federal Register* (71 FR 13757), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists.

Since the initial notice was published on March 17, 2006, the import restrictions were subsequently extended two (2) times. First, on March 15, 2011, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 11 – 06) in the *Federal Register* (76 FR 13879) to extend the import restrictions for a period of five years to March 15, 2016. Second, on March 15, 2016, following the exchange of diplomatic notes, CBP published a final rule (CBP Dec. 16 – 05) in the *Federal Register* (81 FR 13721) to extend the import restriction for an additional five-year period to March 15, 2021.

On June 8, 2020, the United States Department of State proposed in the *Federal Register* (85 FR 35156) to extend the MOU between the United States and Colombia concerning the imposition of import restrictions on certain categories of archeological and ecclesiastical ethnological material from Colombia. On January 6, 2021, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of Colombia continues to be in jeopardy from pillage of certain archaeological and ecclesiastical ethnological material, and that the import restrictions should be extended for an additional five years. Subsequently, on March 4, 2021, the Government of the United States and Government of Colombia entered into a new agreement, titled “Agreement between the Government of the United States of America and the Government of the Republic of Colombia Concerning the Imposition of Import Restrictions on Categories of Archaeological and Ethnological Materials of the Republic of Colombia,” which is effective on March 10, 2021. The new agreement supersedes the existing MOU that first entered into force on March 15, 2006.

Pursuant to the new agreement, the import restrictions will remain in effect for an additional five years.

Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The restrictions on the importation of archaeological and ecclesiastical ethnological material are to continue in effect until March 10, 2026. Importation of such material from Colombia continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting the material for “Colombia.”

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury’s authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise, Reporting and recordkeeping requirements.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g, in the table in paragraph (a) amend the entry for Colombia by removing the words “CBP Dec. 06 – 09 extended by CBP Dec. 16 – 05” in the column headed “Decision No.”, and adding in their place the words “CBP Dec. 06-09 extended by CBP Dec. 21 – 05”.

2. In § 12.104g, amend the table in paragraph (a) by revising the entry for Colombia to read as follows:

§12.104g Specific items or categories designated by agreements or emergency actions.

(a) ***

State party	Cultural Property	Decision No.

Colombia	Pre-Columbian archaeological material ranging approximately from 1500 B.C. to 1530 A.D. and ecclesiastical ethnological material of the Colonial period ranging approximately from A.D. 1530 to 1830	CBP Dec. 06-09 extended by CBP Dec. 21-05

Troy A. Miller, the Senior Official Performing the Duties of the Commissioner, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the *Federal Register*.

Robert F. Altneu
Director, Regulations & Disclosure Law Division
Regulations & Rulings
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U.S. Customs and Border Protection.

Approved: March 9, 2021

Timothy E. Skud
Deputy Assistant Secretary of the Treasury.

[FR Doc. 2021-05173 Filed: 3/10/2021 8:45 am; Publication Date: 3/12/2021]